IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

J U D G M E N T

(1)D.B.CIVIL SPECIAL APPEAL (W) NO.273/2007
Avtar Singh & Ors. v. State of Rajasthan & Ors.

(2)D.B.CIVIL SPECIAL APPEAL (W) NO.267/2007
Pritam Singh & Ors. v. State of Rajasthan & Ors.

(3)D.B.CIVIL SPECIAL APPEAL (W) NO.386/2007
Iqbal Singh & Ors. v. State of Rajasthan & Ors.

(4)D.B.CIVIL SPECIAL APPEAL (W) NO.387/2007
Kapoor Singh & Anr. v. State of Rajasthan & Ors.

(5)D.B.CIVIL SPECIAL APPEAL (W) NO.388/2007
Karnel Singh v. State of Rajasthan & Ors.

(6)D.B.CIVIL SPECIAL APPEAL (W) NO.389/2007
Satpal Singh & Ors. v. State of Rajasthan & Ors.

(7)D.B.CIVIL SPECIAL APPEAL (W) NO.390/2007
Hardev Singh & Ors. v. State of Rajasthan & Ors.

(8)D.B.CIVIL SPECIAL APPEAL (W) NO.395/2007
Mahal Singh & Ors. v. State of Rajasthan & Ors.

(9)D.B.CIVIL SPECIAL APPEAL (W) NO.396/2007
Sewa Singh & Ors. v. State of Rajasthan & Ors.

(10)D.B.CIVIL SPECIAL APPEAL (W) NO.397/2007
Avtar Singh & Ors. v. State of Rajasthan & Ors.

(11)D.B.CIVIL SPECIAL APPEAL (W) NO.408/2007
Charanjeet Singh & Ors. v. State of Rajasthan & Ors.

(12)D.B.CIVIL SPECIAL APPEAL (W) NO.409/2007
Gurvinder Singh & Ors. v. State of Rajasthan & Ors.

(13)D.B.CIVIL SPECIAL APPEAL (W) NO.411/2007
Gurucharan Singh & Ors. v. State of Rajasthan & Ors.

(14)D.B.CIVIL SPECIAL APPEAL (W) NO.412/2007
Mahendra Singh & Ors. v. State of Rajasthan & Ors.

(15)D.B.CIVIL SPECIAL APPEAL (W) NO.413/2007
Baljinder Singh v. State of Rajasthan & Ors.

(16)D.B.CIVIL SPECIAL APPEAL (W) NO.414/2007
Trilok Singh & Ors. v. State of Rajasthan & Ors.

(17)D.B.CIVIL SPECIAL APPEAL (W) NO.415/2007
Sanjeev Kumar & Ors. v. State of Rajasthan & Ors.

(18)D.B.CIVIL SPECIAL APPEAL (W) NO.416/2007
Pareetam Singh & Ors. v. State of Rajasthan & Ors.

(19)D.B.CIVIL SPECIAL APPEAL (W) NO.417/2007
Balwant Singh & Ors. v. State of Rajasthan & Ors.

(20)D.B.CIVIL SPECIAL APPEAL (W) NO.418/2007
Yadvindra Singh & Ors. v. State of Rajasthan & Ors.

(21)D.B.CIVIL SPECIAL APPEAL (W) NO.419/2007
Makkhan Singh & Ors. v. State of Rajasthan & Ors.

(22)D.B.CIVIL SPECIAL APPEAL (W) NO.423/2007
Darshan Singh & Anr. v. State of Rajasthan & Ors.

(23)D.B.CIVIL SPECIAL APPEAL (W) NO.424/2007
Dilbag Singh & Anr. v. State of Rajasthan & Ors.

(24)D.B.CIVIL SPECIAL APPEAL (W) NO.425/2007
Preetam Singh v. State of Rajasthan & Ors.

(25)D.B.CIVIL SPECIAL APPEAL (W) NO.426/2007
Charan Deep Singh & Anr. v. State of Rajasthan & Ors.

Date of Judgment :: 23rd April, 2007

P R E S E N T

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE JUSTICE SHRI GOVIND MATHUR

Mr. Sudhir Sharma]
Mr. Ramandeep Singh] for the appellants.

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BY THE COURT : (Per Hon'ble Mathur,J.)

Considering necessary to provide adequate water to the cultivators at tail end of Gang Canal Bhakra and Indira Gandhi Canal, a decision was taken by Government of Rajasthan for correction of the size

and level of the water outlets discharging more than 50% water over their designed discharge.

The Divisional Irrigation Officer, North Division, Sriganganagar, accordingly, to give adequate publicity to the proposed correction issued notices under Rule 11(3) of the Rajasthan Irrigation and Drainage Rules, 1955 (hereinafter referred to as "the Rules of 1955") to various Panchayat Samitis and Gram Panchayats of the area concerned. Receiving no objection, necessary orders then were passed by the District Irrigation Officer.

The appellants challenged the orders aforesaid by way of filing writ petitions alongwith the applications for interim relief. Learned Single Judge by a common order in 37 petitions for writ, while accepting the applications for interim relief, on 21.3.2007 ordered as follows:-

> "Thus, in view of the above discussion the stay applications are allowed, in the manner, that the respondents shall not in any manner take any such step, which may affect, or reduce, the water supply even in micro level, below the one originally sanctioned, to each of the petitioners. Obviously the interim order, if exists in cases mentioned in Schedule-A, shall accordingly stands modified. It is, however, clarified and further directed that in any case where the existing Rabi Crop is

> existing unharvested, and is in the requirement of water for its proper ripening, then in those cases the cultivator shall be continued to be provided the water as was being provided hitherto-fore, this present order in those may be given effect to after the requirement of water to the crop in the particular field of the particular cultivator is over."

These appeals are preferred by the appellants to question validity, propriety and correctness of the order dated 21.3.2007.

The contention of the appellants is that a material change was made in established system of canal distribution without giving notice to them as prescribed under Rule 11(3) of the Rules of 1955. According to counsel for the appellants the notice given to Panchayat Samitis or Gram Panchayats is not sufficient compliance of Rule 11(3) of the Rules of 1955 as the thrust of the provision is to provide an opportunity of hearing to the persons effected. To substantiate the contention, reliance is placed upon a Division Bench judgment of this Court in the case of Jarnel Singh and Anr. v. State of Rajasthan & Ors., reported in 1992 WLN (UC) 481, holding therein that there shall be no breach of any rule or principles of natural justice if a notice is given to a co-sharer of the chak whose existing system of irrigation is sought to be changed.

We do not find any substance in the contention so raised, as Rule 11(3) of the Rules of 1955 nowhere contemplates to give notice to individual cultivator but provides for adequate publicity through Panchayats for proposed removal and reduction of water outlets. In the case of Jarnel Singh (supra) the Court while considering the issue of not giving notice to the co-sharer of the adjacent land to the land of the effected co-sharer held that "it is the only co-sharers of the chak whose existing system of irrigation is sought to be changed, who are required to be given notice before such change as effected and that having been done, there is no breach of any rule or principles of natural justice in giving effect to the proposed alteration". In the case aforesaid the controversy was pertaining to shifting of water outlet from one chak to another chak, therefore, the notice was given to the individual cultivator, whereas in the present case a campaign was made for correction of water outlets in three major canal area irrigation systems as a consequent to a policy decision of the government, as such the wide publicity for proposed alteration through Panchayat Samitis and Gram Panchayats is sufficient compliance of Rule 11(3) of the Rules of 1955.

A vague effort was also made by counsel for the appellants to get examined by us the need of the

proposed changes in established irrigation system, however, suffice it to say that this Court do not possess the specialised knowledge about functioning of that and in absence of any allegation of malafide, the opinion of the experts under whom advise policy decision is taken has to be considered as in the best interest of irrigation. Relevant to note that the policy decision of the Government is available on record as Anx.1 (SBCivil Writ Petition No.6424/05), from perusal of that it reveals that the policy decision for alteration in water outlets was prepared by the Government under advise of the engineers of the Department of Irrigation.

We also do not find any merit in the contention of Shri Sudhir Sharma, learned counsel for the appellants that after confirmation of the interim order earlier passed, the Court erred in deciding the stay matter afresh. We are of the view that no error could be pointed out on that count, as a matter of fact learned Single Judge just with a view to maintain parity in orders in various cases rightly consolidated all similar matters and passed a common order.

Lastly, it is worthwhile to note that by the order impugned rights of the appellants are adequately protected by making an order by directing the respondents not to take any such step, that may effect or reduce the water supply even in micro level, below

the one originally sanctioned to each of the cultivators and further by directing that in any case, where the existing Rabi Crop is standing unharvested and is in need of the water for its proper ripening, then in those cases the cultivators shall be continued to be provided the water as was being provided hitherto-fore.

In view of whatever discussed above, we do not find any merit in these appeals. Accordingly, the same are dismissed.

(GOVIND MATHUR),J. (S.N.JHA),C.J.

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